



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/561,724

05/04/2006

Bernd Frey

10191/4458

8222

26646

7590

08/06/2008

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

ZHANG, JUE

ART UNIT

PAPER NUMBER

2838

MAIL DATE

DELIVERY MODE

08/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/561,724	Applicant(s) FREY ET AL.	
	Examiner JUE ZHANG	Art Unit 2838	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/20/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/20/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 8-11 recite the limitations being dependent of the limitations of Claim 1 which has been cancelled. Therefore, the metes and bounds of the claim are unclear. Applicant's correction is required. For the claim examination purpose claims 8-9 will be read as dependent to claim 7.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 7-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Martin et al. (US Patent No. 4390841, hereinafter '841).

Claim 7, '841 teaches a device (Fig. 1-2) and a method (Fig. 2-3) for predicting a remaining lifetime of an electric energy storage (Abstract; col. 5-col. 6)(Fig. 1-3 and corresponding texts) comprising:

determining the remaining lifetime by extrapolation via a mathematical model of the energy storage mechanism (Abstract; Col. 5, lines 58-63)(Fig. 1-3 and corresponding texts);

defining the remaining lifetime as a time until reaching any definable limiting values for one of a minimum efficiency and a minimum storage capacity; indicating the remaining lifetime (Abstract; Col. 5, lines 58-63)(Fig. 1-3 and corresponding texts); and

when a level falls below a preselectable threshold for the remaining lifetime, providing a warning (col. 6, lines 34-48, col. 5, lines 61-63).

Claim 12, '841 teach the limitations of claim 7 as discussed above. '841 further teaches the device further comprising a display; a memory; and a processor (e.g., 7) is programmed to perform the above method (Fig. 1-3 and corresponding texts).

For claim 8, '841 further teaches adapting continuously a parameter of the energy storage mechanism to a real value over the lifetime of the energy storage mechanism.

For claim 9, '841 further teaches calculating and storing at least one of a value for an efficiency of the energy storage mechanism and a value for a storage capacity of the energy storage mechanism at regular intervals on the basis of the mathematical model (Fig. 1-3 and corresponding texts).

For claim 10, '841 teaches the limitations of claim 9 as discussed above. '841 further teaches that the at least one of the value for the efficiency of the energy storage mechanism and the value for the storage capacity of the energy storage mechanism are based on at least one of a specifiable charge state and a temperature (Fig. 1-3 and corresponding texts).

For claim 11, '841 teaches the limitations of claim 10 as discussed above. '841 further teaches that the remaining lifetime is determined by extrapolation from the at least one of the value for the efficiency of the energy storage mechanism and the value for the storage capacity of the energy storage mechanism and from a minimum value required for a particular application (Fig. 1-3 and corresponding texts).

For claim 13, '841 teaches the limitations of claim 7 as discussed above. '841 further teaches that the electric energy storage mechanism includes a battery (9) in a motor vehicle (Abstract)(Fig. 1).

Examiner's Note:

5. Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in their entirety as potentially teaching all or part of the claimed invention, as

well as the context of the passage as taught by the prior art or disclosed by the Examiner.

6. In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jue Zhang whose telephone number is (571) 270-1263. The examiner can normally be reached on M-TH 8:00-5:00PM EST, Other F 8:00AM-4:00PM EST

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Akm Ullah can be reached on 571-272-2361. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

Art Unit: 2838

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Akm Enayet Ullah/
Supervisory Patent Examiner, Art
Unit 2838

JZ